

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.	Applicant(s)	
09/832,397	ZIV ET AL.	
Examiner	Art Unit	
Stephen M. D'Agosta	2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires _____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. Other: PTO-892 form.

/Stephen M. D'Agosta/
Primary Examiner, Art Unit 2617

Continuation of 11. does NOT place the application in condition for allowance because:

1. On page 6 of the remarks section, the applicant states that they "agree" with the examiner and "point out that it is the problems associated with the required 'translation/conversion' that Applicant's claimed invention solves", yet there is nothing in the independent claims that puts forth a solution.

The applicant's claims put forth an

2. end-to-end phone call whereby the voice data is converted into a different format somewhere in the "middle" between the two users and then ultimately re-converted back into the original data packets.

This concept is well known and "long haul" data communications circuits are rarely use the same formatting/protocols as the data which they carry. Further to the point, in cellular networks, the BTS communicates with a wireless user using a cellular protocol (eg. GSM, AMPS, CDMA, etc) but the back-haul/long-haul links back to the MSC are typically T1 or T3 fiber/optical (eg. not cellular). Similarly, ATM or SONET may be used and/or TCP/IP packet formats can be used.

Hence the applicant is essentially claiming a method in which to route data from caller to callee using a different, non-native protocol than that which is being used by the two different users (eg. cellular/VoIP). Since a caller only cares if the voice data is transmitted/received correctly, the back/long haul data circuits are transparent and not of concern -- that design is left to the communications engineer.

2. Turning to the art, the examiner put forth several pieces to show a) disparate user formats/protocols and b) disparate back/long haul circuits.

a. Clearly the prior art shows both wired and wireless users as well as cellular and PSTN users. A translation is inherently required such that the two can communicate.

b. The prior art also shows that the users can be connected via a "backbone" that is non-native to the format/protocol the callers are using (eg. ISDN backbone, LAN, MAN, ATM, etc - see Roach).

c. Should two callers using the same phone be connected, then the only translation required would be the backbone conversion but the voice data will be re-converted back at the receive end. Should two disparate callers connect (eg. cellular to wired), then there are TWO conversions required, eg. backbone conversion and voice data conversion.

Point "c" is found in the prior art and clearly reads on the claims.

3. The examiner notes for the record that the conversion to "PCM" is a design choice since there exists a wide range of long haul communications technologies which might be used (as discussed above, wired/wireless, optical, fiber, T1/T3, ATM, SONET, satellite, microwave, IR, etc).

4. The examiner also notes that it is INHERENT that the two callers must ultimately have the voice data correctly converted into the protocol that their phone uses/understands. A digital phone user will not be able to receive a voice call from an analog user unless it is converted. Similarly, the conversion for the backbone/longhaul transmission must be removed/reconverted such that it is put back into its native state for the callee to process.

5. The prior art clearly teaches different users protocols and different transmission/longhaul protocols which all can be used/interchanged but it is inherent that the data be properly converted/reconverted into the native protocol that the user's phone understands. Hence the use of PCM in a backbone is a design choice. .

6. The examienr has added new art which puts forth various backbone technologies between phone users which requires translation/converstion. A T1 link inherently uses PCM hence it reads on the claim.